

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

LINDA LEE GRIGSBY,

Plaintiff,

v.

CIVIL ACTION NO. 2:11-cv-00573

NOBLE YOUNG,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Plaintiff Linda Lee Grigsby's Motion to Remand. [Docket 3.] For reasons that follow, the Court **GRANTS** Plaintiff's Motion to Remand, **DENIES** Plaintiff's request for attorney's fees and costs, and **DISMISSES** this case from the active docket.

I. BACKGROUND

On August 23, 2011, Defendant Noble Young filed his Notice of Removal. (Docket 1.) Therein he states that he is a resident of West Virginia. (*Id.* at 1.) Notwithstanding this admission, he maintains that this Court has jurisdiction pursuant to 28 U.S.C. §§ 1332, 1441 & 1444. (*Id.* at 2.)

On September 22, 2011, Plaintiff filed her Motion to Remand. (Docket 3.) Therein Plaintiff contends that, pursuant to 28 U.S.C. § 1441(b), this Court lacks jurisdiction over this case because Defendant is a citizen of West Virginia. (*Id.* at 1.) Also, Plaintiff alleges, without further elaboration, that Defendant removed this case "merely to gain unjust advantage over the Plaintiff" and should therefore be awarded attorney's fees and costs. (*Id.* at 2.)

Defendant's response to Plaintiff's remand motion was due October 11, 2011. Defendant has not filed a response to the motion.

II. DISCUSSION

Pursuant to 28 U.S.C. § 1441(b), civil actions that are not based on federal question jurisdiction "shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought."

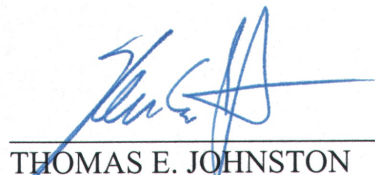
Defendant's Notice of Removal indicates that Plaintiff's suit is a personal injury case and presents no claim or right arising under the Constitution, treaties or laws of the United States. (Docket 1-1 at 3.) Thus, where Defendant admits he is a citizen of the state in which this action was originally filed, this Court lacks jurisdiction over this matter pursuant to 28 U.S.C. § 1441(b).

Accordingly, the Court **GRANTS** Plaintiff's Motion to Remand, **DENIES** Plaintiff's request for attorney's fees and costs, and **DISMISSES** this case from the active docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: October 19, 2011



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE